

REMARKS/ARGUMENTS

After the foregoing amendment, claims 1-25 are pending in the present application. Claims 22, 23 and 25 were each amended to more clearly recite the present invention or/and to correct minor informalities. No new matter was added. Withdrawal of all rejections is respectfully requested for the reasons set forth below.

Amendments to the Specification

By this Amendment, paragraph [0040] has been amended to correct one minor typographical error. Specifically, line 5 of paragraph [0040] was amended by replacing “separates” with --separated--.

Claim Amendments

Claims 2-20 include the replacement of “A foldable” with “The foldable,” as was agreed to in the Interview of October 8, 2004 and was indicated in the Notice of Allowance mailed October 18, 2004. Because this amendment was previously entered, claims 2-20 have been identified as “Previously Presented” herein.

Claims 22, 23 and 25 have also been amended herein in order to effect the same replacement.

Claims 22 and 25 have also been amended to clarify the connector feature. Support for this amendment can be found in original claim 1.

Allowability of Claims 1-20

Initially, the allowability of claims 1-20 indicated in the Office Action mailed June 23, 2005 is graciously acknowledged.

Rejection of Claims 21-25 under 35 U.S.C. 102(b)

In paragraph 1 of the Office Action, claims 21-25 were rejected under 35 U.S.C. 102(b) as being anticipated by Rothe et al. (US 6,578,898). Applicant respectfully traverses this rejection, and requests the withdrawal thereof, for the reasons discussed below.

Although US 6,578,898 cannot be cited as a 102(b) reference, due to the fact that it issued less than 1 year before the US filing date of the present application, Applicant

acknowledges that the pre-grant publication thereof (i.e. US 2002-030380 cited in the IDS filed February 2, 2004) published more than 1 year before the US filing date of the present application. Thus, the following arguments are directed to both of these substantially identical disclosures.

Rothe et al. do not anticipate the present invention as the reference fails to teach or disclose a “second means for automatically unlocking a lower edge of a rear window . . . from a tensioning bow” in accordance with claim 21 or “automatically unlocking a lower edge of a rear window . . . from a tensioning bow” in accordance with claim 24.

As indicated by Figs. 12 and 21 of Rothe et al., the lower edge of the rear window 9 of Rothe et al. is designed to merely rest upon a seal D, 128. As a result, there is no locking or interlocking of the lower edge of the rear window 9 with the seal D, 128. Thus, when the foldable top is moved from the roof closed position to the roof open position, there can be no “unlocking” of the lower edge of the rear window 9 from the tensioning bow 4. Rather, the lower edge of the rear window 9 of Rothe et al. merely separates from the seal D, 128.

As Fig. 9 was cited in paragraph 1 of the Office Action, a close review of the second embodiment shown in Figs. 9 and 10 and described at col. 4, line 46 to col. 5, line 33 has been conducted, but no reference, either explicitly or implicitly, could be identified to an “unlocking” feature of this embodiment.

Therefore, it is respectfully submitted that all features of claims 21 and 24 are not taught by Rothe et al. and the novelty rejection can not stand. Moreover, because there is no suggestion to modify Rothe et al. in order to achieve the invention of claims 21 and 24, claims 21 and 24 are believed to be patentable.

In the alternative, it is noted that claims 22 and 25 have been clarified and are believed to contain allowable subject matter for at least the reasons stated in paragraph 3 of the Examiner’s Amendment and Examiner’s Statement of Reasons for Allowance attached to the Notice of Allowance mailed October 18, 2004.

For all the foregoing reasons, it is respectfully submitted that the rejection of claims 21-25 under 35 U.S.C. 102(b) is improper and should be withdrawn.

Conclusion


Therefore, it is respectfully submitted that all claims pending in the present Application are in condition for allowance. Reconsideration and allowance of pending claims is therefore respectfully requested.

If the Examiner believes an interview, either telephonic or in person, will advance the prosecution of this matter, it is respectfully requested that the Examiner contact the undersigned at the Examiner's convenience.

Respectfully submitted,

STEFAN HUEDEPOHL

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By: 

Mark A. Ussai
Reg. No. 42,195

File No. 016382-9005
Michael Best & Friedrich LLP
100 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-4108
(610) 798-2179